App. F. IX-4

Previous References

1935.
(Legis)

File No. 65-3

Serial No[illegible].

Letter References.

Legis 84 275/35

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial No[illegible]

Part B for Feby 1936

SUBJECT.

Amendment of the Mysore Infant Marriage prevention Regn

X - 4

Opinion of the council

(Bill may be drafted)

WD 03607—GPB—22,500—2-8-35

engaged
25/2/36

DEWAN'S MINUTE.

FILE No. 65 1935.

1) Amendment of the Hyderabad Infants Marriage Regulation

2) I should like to amend the Regulation by raising the marriageable age of girls to 12 years. The effect which may be worked up — I feel most public opinion — even the orthodox Brahmin Circles — might support the proposal — the age could which much opposition to raise to 11 years at any rate.

15-10-35

C. Secy)

Under Sy.

3) Put Please bring up with file for 15/10

15/10/35

4) For perusal of the Dewan's minute. draft Bill will be put up.

Member)

2nd Member)

17/10

BEGOND MEMBER OF COUNCIL.
18 OCT. 1935
No. 2538

for 19/10

17/10

Bill to amend the Infant Marriages Prevention Reg^n, X of 189

Serial No.

1) Copy of the Infant Marriages Prevention Reg^n, 1894 is herewith put up

In order to raise the marriageable age of girls to 11 or 12 years, it may be enough to amend section 2 of the Reg^n. 'Infant girl' has been defined here to mean a girl who has not completed eight years of age. In this section for the word "eight" the word 'eleven' may be substituted

Submitted for orders with draft Bill

Done 30/10 31.10.35

6) Please put up a Statement of Objects & reasons also

Done 4/11

7) draft Statement of Objects & Reasons submitted

WD 03594—GPB—30,000—13-7-35

6) Please put up summary copy?
on Rules of the Indian Act & our Regulat.

31/1/86

Should not the typed draft of the circular

EC
6/1/86

Should not the
Chief Minister
see
46

Serial No.

(c) The main points of difference between the Mysore Infant Marriages Prevention Regulation (1894) and the Indian Child Marriage Restraint Act are as follows:-

1. The Mysore Regulation applies only to Hindus The Indian Act applies to all communities.

2. The Mysore Regulation prohibits only marriag of girls under 8 years.

   The Indian Act prohibits not only marriages o girls under 14 years but also of boys under 18 years.

3. The Mysore Regulation also prohibits the marriage of a man above 50 with a girl under 14.

   There is no such provision in the Indian Act.

4. The punishment for infant marriages under the Mysore Regulation is six months simple imprisonment or fine.

   Under the Indian Act, the punishment for a male adult under 21 contracting a child marriage is merely fine extending to Rs.1,000/-. In the case of adults above 21 and persons who perform or abet such marriage, the punishmen is one month's simple imprisonment or fine up to Rs.1,000/-.

5. Sanction of Government for prosecution is necessary under the Mysore Regulation.

   There is no such provision in the Indian Act.

6. No period of limitation for lodging a complai under the Mysore Regulation.

   Under the Indian Act, a complaint has to be lodged with a year of the marriage.

7. Under the Indian Act there is a provision to take security from complainant.

   No such provision under the Mysore Regulation

8. The Mysore Regulation specifically declares that a marriage which has taken place shall not be invalidated on the ground of the penalties under the Regulation.

   No such provision in the Indian Act. But it

WD 03594—GPB—30,000—13-7-35

follows from the general law that marriage is not invalidated.

(v) Three draft bills are put up for consideration.

I. This first draft is merely the Mysore Regulation of 1894 with the substitution of the word " 11 " for " 8 " in regard to the age in section 2 defining infant girl. This is subject to the following shortcomi

(a) This will continue to be applicable only to Hindus, and not to all Communities.

(b) It will prohibit only marriages of girls under 11 but it will not prohibit marriages of boys under 18 as in British India.

II. In this second draft, it is proposed to amend sections 1, 2 and 3 of the Mysore Regulation of 1894 so as to make the law applicable generally to all communities and to prohibit marriages of girls under 11 as well as boys under 18. The rest of the structure of the Mysore Regulation is the same as in ~~remains the same~~.

III. In this draft, the Indian Act is adopted, with the modification that the age of the child if a female is fixed as under 11 years.

Provisions similar to sections 4 and 5 of the Mysore Regulation of 1894 ~~xxx~~ which prohibit the marriage of a person above 50 years with a girl under 14 are added as clauses 8 and 9 of the bill.

Provision requiring the previous sanction of Government for prosecution is also added.

The rest of the structure is the same as in th Indian Act.

Infant Marr... Bill qe

General and Revenue Secretariat. | File No. of 193 . | [App. F. III-2

(a) Draft II has the advantage of simplicity. But draft III is comprehensive following the Indian Act and taking in the good points in our existing Regulation, and it may perhaps be adopted.

(b) The following specific points arise for orders:-

(a) whether the bill is to apply only to Hindus as at present or generally to all ommunities as in the Indian Act;

(b) whether prohibition is to be restric to only marriages of girls under 11 or has to extended to also marriages of boys under 1

(c) whether the general structure of th Indian Act may be adopted or the existing Mysore Regulation may be adopted.

Chief Secretary, 16/1/8

(c) Draft II appears to answer the present purpose best.

(Secretary to Dewan) 16-1-36

OFFICE OF THE FIRST MINISTER 17 JAN. 1936 No. 3041

The question may be discussed at a meeting of the Dewan & Ministers

A above — whether the act shd be made applica to Hindus only as now or to all Comm nities

(c) The existing Mysore Regn adopted —

DEWAN'S OFFICE 22 JAN. 1936 No. 4573

NOTE—Contn. Sheet.

For Disposal at a meeting. No. C. 177

9 1935-36

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

Subject

(clause ii of the schedule)

Bill to amend the Mysore Infant Marriages Prevention Regulation, X of 1894.

Circulated to the Members of Council.

By Order,

24th Jany. 1935.

Chief Secretary to Government.

First Member of Council. (Seen)

586 Second Member of Council. 24/11 26/1/36

CB 27-1-36

Legis 65-35

Subject. -

Bill to amend the Mysore Infant Marriages Prevention Regulation, X of 189

OPINION OF THE COUNCIL.

may be dropped
13-2-36

Under Secy
13-2-36

6.3.1936

DRAFT BILL.

Preamble.

Whereas it is expedient to amend the Mysore Infant Marriages Prevention Regulation, X of 1894; it is hereby enacted as follows :-

Amendment of Section 2.

In Section 2 of the Mysore Infant Marriages Prevention Regulation, 1894, for the word "eight", the word "eleven" shall be substituted.

DRAFT BILL.

Preamble.

Whereas it is expedient to amend the Mysore Infant Marriages Prevention Regulation, X of 1894; it is hereby enacted as follows:-

Amendment of Section 2.

1. In Sub section (2) of Section insert a fullstop after "Mysore" and delete the words "but it shall apply only to marriages among the Hindus"

2. For Sections 2 ~~and~~ substitute the following:-

"2. In this Regulation, unless there is anything repugnant in the subject or context:-

"Child" means a person who, if a male, is under 18 years of age and, if a female, is under 11 years of age.

3. In Section 3 for the words "infant girl" wherever it occurs, substitute ~~with~~ the words "a child".

Statement of objects & reasons.

The Mysore Infact Marriages Prevention Regulation 1894 penalises marriages of infant girls who have not completed eight years of age with a view to the prevention of such marriages.

In British India, by the passing of the child marriage Restraint Act of 1929, it is sought to prevwnt the marriage of girls below 14 years of age.

A private Bill was brought forward in 1932 on the lines of the British Indian Act and the general principles of the Bill were accepted by a majority of the R.A. Government were not however prepared to and their support to the measures until public opinion had declared itself more emphatically in its favour.

When the Bill came up before the L.C. in June 1934 was refused by the Council for the introduction of the measure. The trend of discussions, however, disclosed that public opinion would be in favour of raising the marriageable age of girls to a limit lower than 14 years provided in the British Indian Ac The desirability of raising the age fixed in Regn. X of 1894 is admitted

It is accordingly proposed to raise the age to 11 for the present as in the

III

B.

~~Alternative Draft~~.

A BILL TO RESTRAIN THE SOLEMNISATION OF CHILD MARRIAGES IN THE MYSORE STATE.

Whereas it is expedient to restrain the solemnisation of Child Marriages in th State, it is hereby enacted as follows:-

1. (i) This Regulation may be called "The Mysore Child Marriage Restraint Regulation, 193

(ii) It shall extend to the whole o the territories of Mysore.

(iii) It shall come into operation at the expiration of six months from the date of its publication in the official Gazette.

2. In this Regulation, unless there is anything repugnant in the subject or co text :-

(a) "Child" means a person who, if a female is under 11 years of age;

(b) "Child Marriage" means a marriage to which either of the contracting parties is a child;

(c) "Contracting Party" to a marriage means either of the parties whose marriage isthereby solemnised; and

(d) "Minor" means a person of either sex who is under 18 years of age.

Punishment for make adult below 21 years of age marrying a child.

3. Whoever, being a male above 18 years of age and below 21, contracts a child marriage, shall be punishable with fine which may extent to Rs.1,000/-

Punishment for male adult above 21 years of age marrying a child.

4. Whoever, being a male above 18 & 2 years of age and contracts a child marriage, shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs.1,000 or with both.

Punishment for solemnising a child marriage.

5. Whoever, performs, conducts or directs any child marriage, shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs.1,000 or with bot unless he proves that he had reason to believ that the marriage was not a chil marriage.

Punishment for parent or guardian concerned in a child marriage.

6. (i) Where a minor contracts a child marriage, any person having charg of the minor, whether as parent or guardian or in any other capacity, lawful o unlawful, who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, shall be punishable with simple imprisonment which may extend to one month or with fine which may extend to Rs.1,000 or with

with both, provided that no woman shall be punishable with imprisonment.

(ii) For the purpose of this section, it shall be presumed, unless and until the contrary is proved, that, where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnised.

Imprisonment not to be awarded for offences under section 3.

7. Notwithstanding anything containing in Section 25 of the General Clauses Regulation of 1899, or Section 64 of the Indian Penal Code, as in force in Mysore, a court sentencing an offender under section 3 shall not be competent to direct that, in default of payment of the fine imposed, he shall undergo any term of imprisonment.

Punishment of a man above fifty years - marrying a girl under 14.

8. Any man who having completed fifty years of age marries a girl who has not completed fourteen years of age shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for abetment of offence provided against in section 4.

9. Any person who causes the marriage of a girl who has not completed fourteen years of age, with a man who has completed fifty years of age, and any person who knowingly aids and abets, within the meaning of the Indian Penal Code, such a marriage shall be punished with simple imprisonment for a term which may extend to six months or with fine or with both.

Jurisdiction under this Regln.

10. Notwithstanding anything contained in section 190 of the Code of Criminal Procedure (Regulation II of 1904), no court other than that of a District Magistrate shall take cognisance of, or try, any offence under this Regulation.

Mode of taking cognisance of offences.

11. No court shall take cognisance of any offence under this Regulation save upon complain made within one year of the solemnisation of the marriage in respect of which the offence is alleged to have been committed and except with the previous sanction of the Government.

~~alleged to have been committed.~~

12. The court taking cognisance of offence under this Regulation shall, unless it dismisses the complaint under Section 203 of the Code of Criminal Proce dure, 1904, either itself make an inquiry under Section 202 of that code or direct a magistrate of the first class subordinate to it, to make such inquiry.

Preliminary inquiries into offences under this Regulation.

13. (i) At any time after examining the complaint and before issuing process for compelling the attendance of the accused, the court shall, except for reasons to be recorded in writing require the complainant to execute a bond, with or without sureties, for a sum not exceeding Rs.100 as security for the payment of any compensation which the complainant may be directed to pay under Section 250 of the Code of Criminal Procedure, 1904, and if such security is not furnished within such reasonable time as the court may fix, the complaint shall be dismissed.

Power to take security from complainant

(ii) A bond taken under this section shall be deemed to be a bond taken under the Code of Criminal Procedure, 1904, and Chapter XLII of that code shall apply accordingly.

14. The Mysore Infant Marriage Prev

prevention Regulation, 1894 is hereb;

repealed.